

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
(Eastern Division)

JUDGE GOTTSCHALL

MAGISTRATE JUDGE BOBRICK

BARB PRODUCTS, INC.,

Plaintiff,

v.

IAMS COMPANY, MOUNTAIN COUNTRY
FOODS, INC., C & H PACKAGING
COMPANY, INC., PEEL PLASTIC
PRODUCTS, and HIKARI SALES U.S.A.,
INC.

Defendants.

01C 2842

Civil Action No.

JURY TRIAL DEMANDED

DOCKETED
APR 23 2001

✓
FILED-01C

01 APR 20 11:14:07

CLERK
U.S. DISTRICT COURT

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Barb Products, Inc. ("Barb"), complains of defendants, IAMS COMPANY, MOUNTAIN COUNTRY FOODS, INC., C&H PACKAGING COMPANY, INC., PEEL PLASTIC PRODUCTS, and HIKARI SALES U.S.A., INC., as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter under 28 U.S.C. § 1338(a). Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400 (b).

2. Barb is an Illinois corporation with offices at 111 Rivershire Lane, Lincolnshire, Illinois 60069. Barb owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 5,334,127, entitled Reclosable Plastic Bags Made With Open Mouth and Method of Making Open Mouth Bags," issued August 2, 1994 (the "'127 patent") (Exhibit A).

H

3. Iams Company ("Iams") is an Ohio corporation with offices at 7250-T Poe Avenue, Dayton, Ohio 45414. Iams has manufactured recloseable bags at least claim 6 of the '127 patent and products using the recloseable bags in this judicial district. As a result, Iams' infringement of the '127 patent has allowed it to receive profits from sales to consumers located in this judicial district and elsewhere.

4. Mountain Country Foods, Inc. ("MCF") is a Utah corporation with offices at 1533 North Main Street, Spanish Fork, Utah 84660. MCF has manufactured recloseable bags with at least claim 6 of the '127 patent and products using the recloseable bags have been sold in this judicial district. As a result, MCF's infringement of the '127 patent has allowed it to receive profits from sales to consumers located in this judicial district and elsewhere.

5. C & H Packaging Company, Inc. ("C&H") is a Wisconsin corporation with offices at 1401 W. Taylor Street, Merrill, Wisconsin 54452-2917. C&H has manufactured recloseable bags which infringe at least claim 6 of the '127 patent and products using the recloseable bags have been sold in this judicial district. As a result, C&H's infringement of the '127 patent has allowed it to receive profits from sales to consumers located in this judicial district and elsewhere.

6. Peel Plastic Products ("Peel") is a Canadian corporation with offices at 49 Rutherford Road S., Brampton, Ontario, Canada L6W3J3. Peel has manufactured recloseable bags which infringe at least claim 6 of the '127 patent and products using the recloseable bags have been sold in this judicial district. As a result, Peel's infringement of the '127 patent has allowed it to receive profits from sales to consumers located in this judicial district and elsewhere.

7. Hikari Sales U.S.A., Inc. ("Hikari") is a California corporation with offices at 2804 McCone Avenue, Haywood, California 94545. Hikari has manufactured recloseable bags which infringe at least claim 6 of the '127 and has sold pet food products using the recloseable bags have been sold in this judicial district. As a result, Hikari's infringement of the '127 patent has allowed it to receive profits from sales to consumers located in this judicial district and elsewhere.

8. Defendants have infringed at least claim 6 of the '127 patent through, among other activities, the manufacture, use, sale and/or offer for sale of infringing reclosable open mouth bags. Defendants have also infringed the '127 patent by inducing others to infringe and by contributing to the infringement by others of at least claim 6 of the '127 patent by use, sale and/or offer for sale of the infringing bags.

9. Defendants' infringement, contributory infringement and/or inducement to infringe has injured Barb and Barb is entitled to recover damages adequate to compensate it for such infringement, in the amount of at least \$75,000, but in no event less than a reasonable royalty.

10. Barb has given the Defendants actual notice of the '127 patent and their infringement.

11. Defendants' infringement, contributory infringement and/or inducement to infringe has been willful and deliberate and has injured and will continue to injure Barb, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale and/or offer for sale of products that come within the scope of the '127 patent.

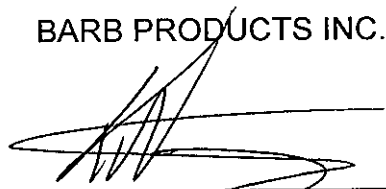
WHEREFORE, Plaintiff, Barb, asks this Court to enter judgment against Defendants, and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate Barb for the infringement that has occurred, together with prejudgment interest from the date infringement of the '127 patent began;
- B. Increased damages as permitted under 35 U.S.C. §284;
- C. A finding that this case is exceptional and an award to Barb of its attorneys' fees and costs as provided by 35 U.S.C. §285;
- D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '127 patent; and
- E. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

Barb demands a trial by jury on all issues presented in this Complaint.

BARB PRODUCTS INC.



Keith A. Vogt

Michael P. Mazza

Douglas M. Hall

NIRO, SCAVONE, HALLER AND NIRO

181 West Madison Street, Suite 4600

Chicago, Illinois 60602

Phone: (312) 236-0733

Attorneys for Barb Products Inc.

Dated: April 20, 2001

EXHIBIT A



US 5,334,127A

United States Patent [19]

Bruno et al.

[11] **Patent Number:** 5,334,127
 [45] **Date of Patent:** Aug. 2, 1994

[54] **RECLOSABLE PLASTIC BAGS MADE WITH OPEN MOUTH AND METHOD OF MAKING OPEN MOUTH BAGS**

[76] **Inventors:** Edward C. Bruno, 15336 Penwood Pl., Aurora, Colo. 80015; Roger A. Davison, 8761 Galen Ct., Denver, Colo. 80229

[21] **Appl. No.:** 24,325

[22] **Filed:** Mar. 1, 1993

[51] **Int. Cl.⁵** B31B 3/64; B31B 3/72

[52] **U.S. Cl.** 493/194; 493/211; 493/214; 156/66

[58] **Field of Search** 493/193, 194, 195, 196, 493/211, 213, 214, 927

[56] **References Cited**

U.S. PATENT DOCUMENTS

Re. 29,208 5/1977 Naito 156/91
 3,532,571 10/1970 Ausnit 493/214

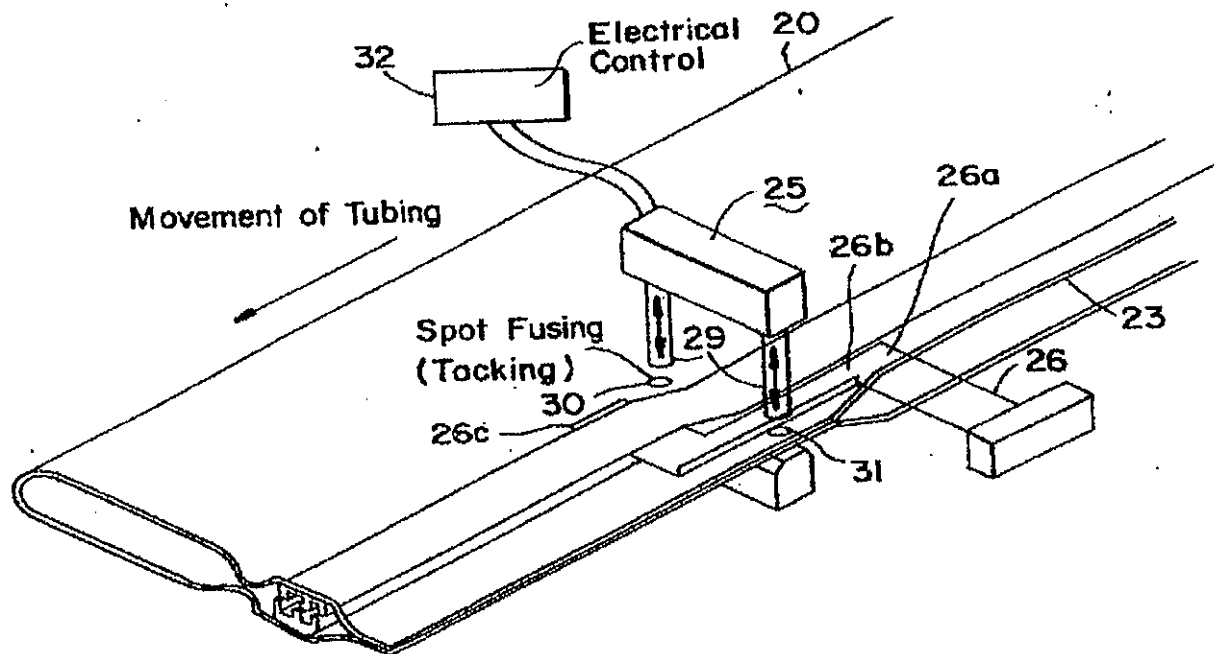
3,853,671 12/1974 Ausnit 156/66
 4,249,982 2/1981 Ausnit 156/66
 4,698,274 10/1987 Ausnit et al. 493/927
 4,807,300 2/1989 Ausnit et al. 493/214
 4,846,586 7/1989 Bruno 383/9
 5,057,065 10/1991 Buchman 493/211
 5,131,121 7/1992 Herrington et al. 156/66

Primary Examiner—William E. Terrell
Attorney, Agent, or Firm—Leo J. Aubel

[57] ABSTRACT

A method and apparatus for forming recloseable plastic bags having engageable mating profiles wherein the bags are made to have an initially open mouth. The profiles which are made to be in an closed condition are opened by a blade apparatus which engages and opens the profiles at a point after the tubing is fused or tacked to thereby maintain proper alignment of the profiles when the bags are made.

6 Claims, 4 Drawing Sheets



U.S. Patent

Aug. 2, 1994

Sheet 1 of

5,334,127

FIG. 1

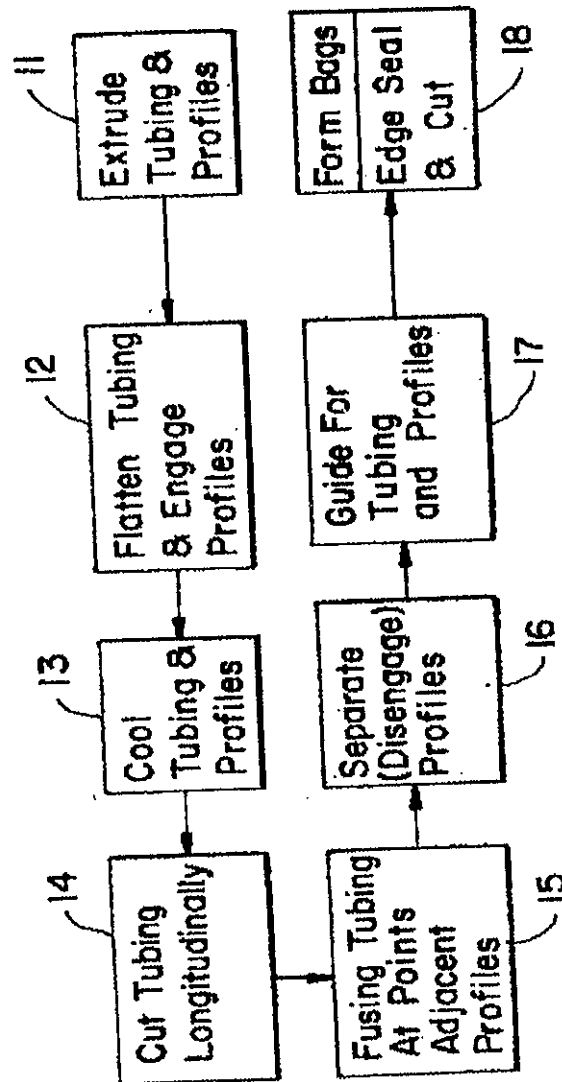
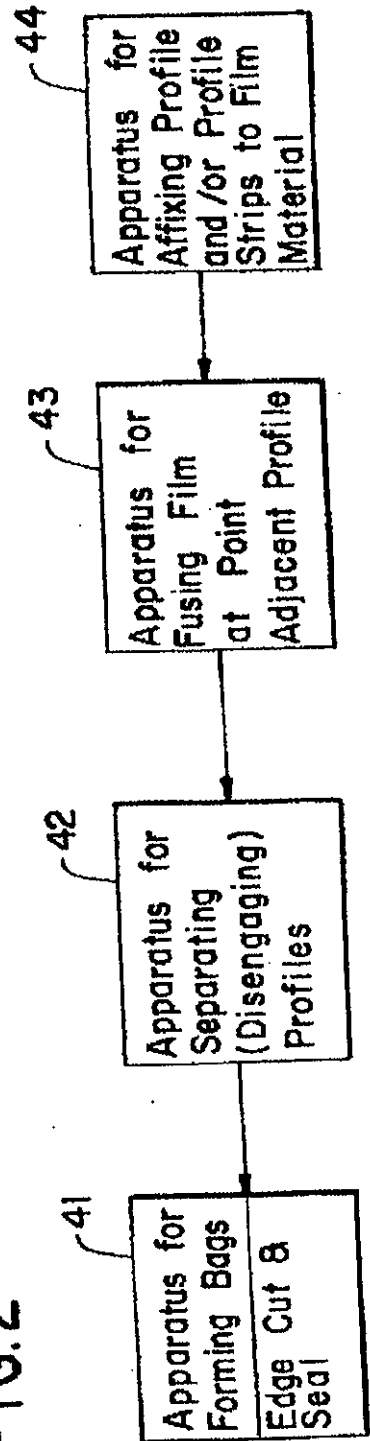


FIG. 2



U.S. Patent

Aug. 2, 1994

Sheet 2 of

5,334,127

FIG. 3

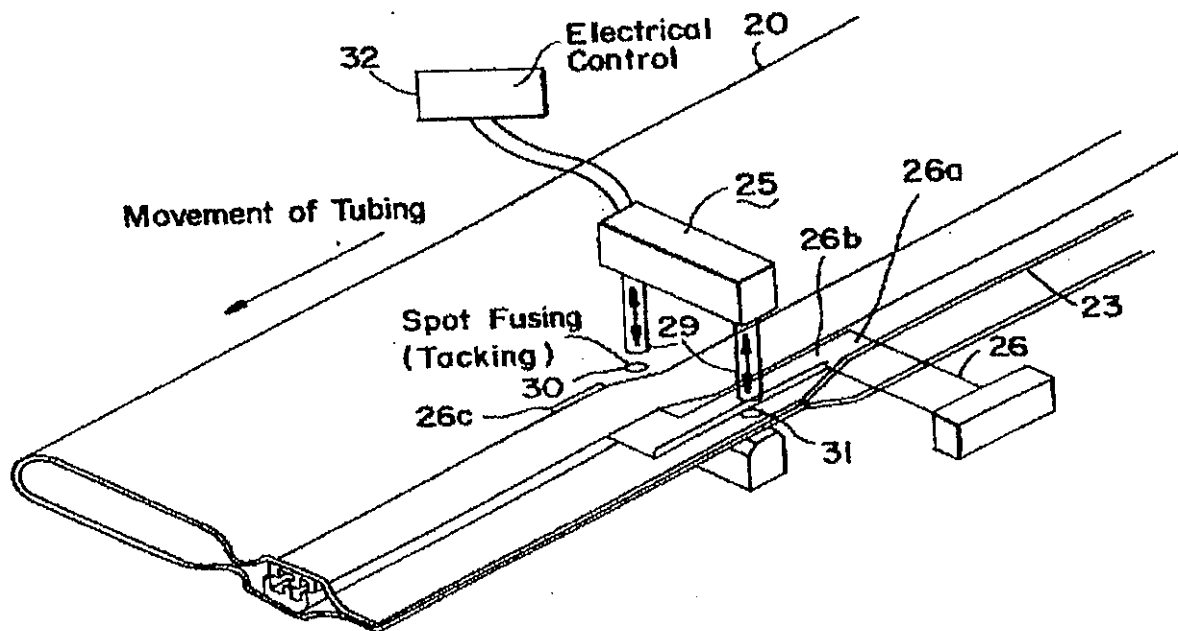


FIG. 3A

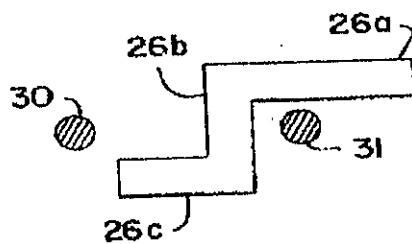


FIG. 3B

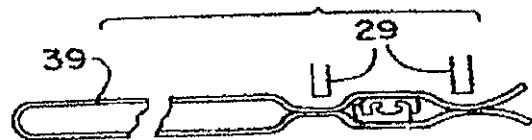


FIG. 3C

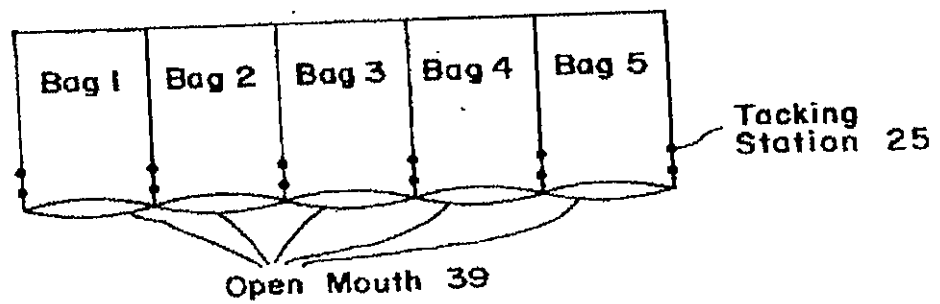


FIG. 4

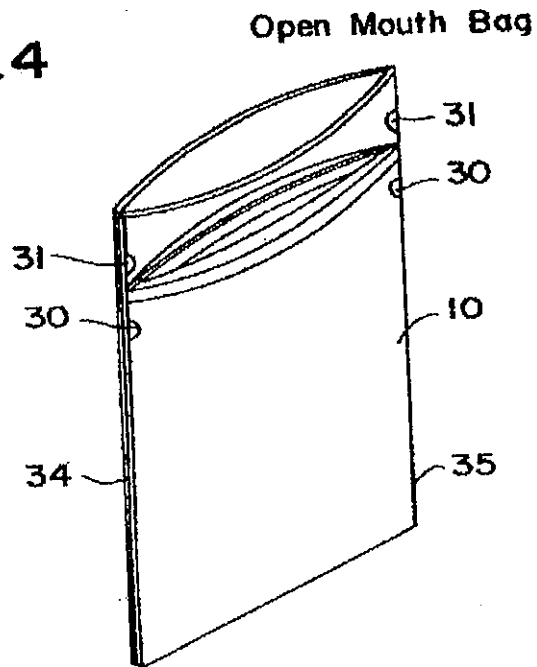
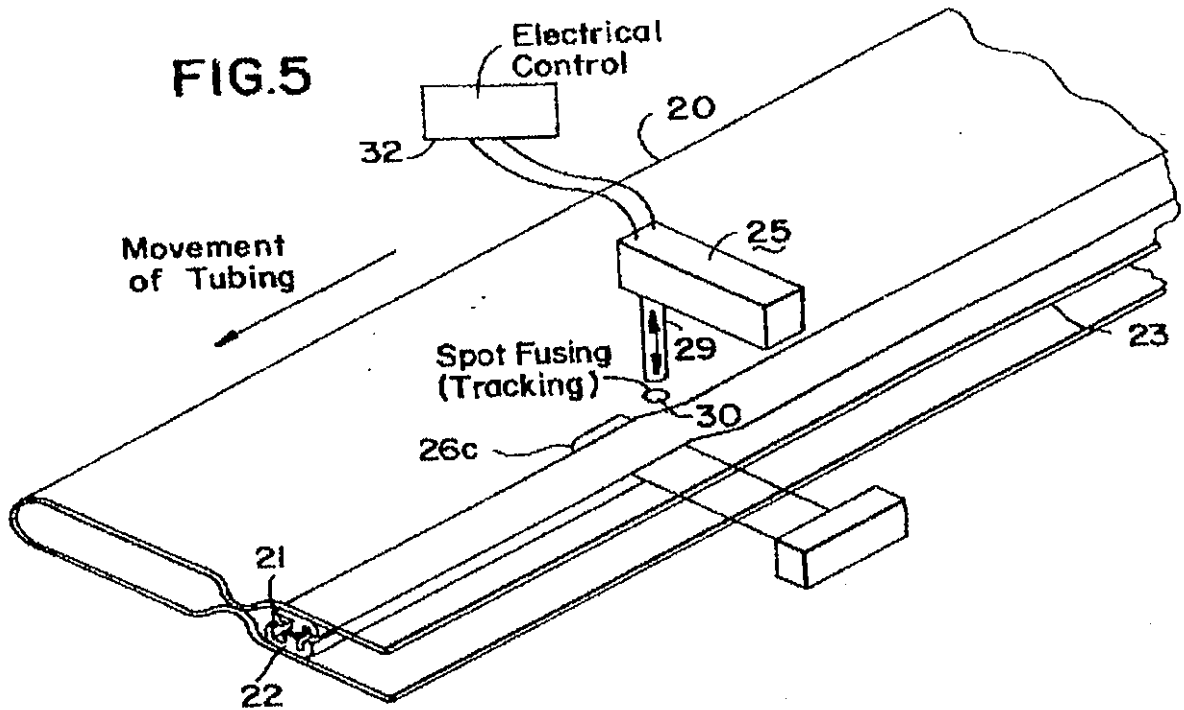


FIG. 5



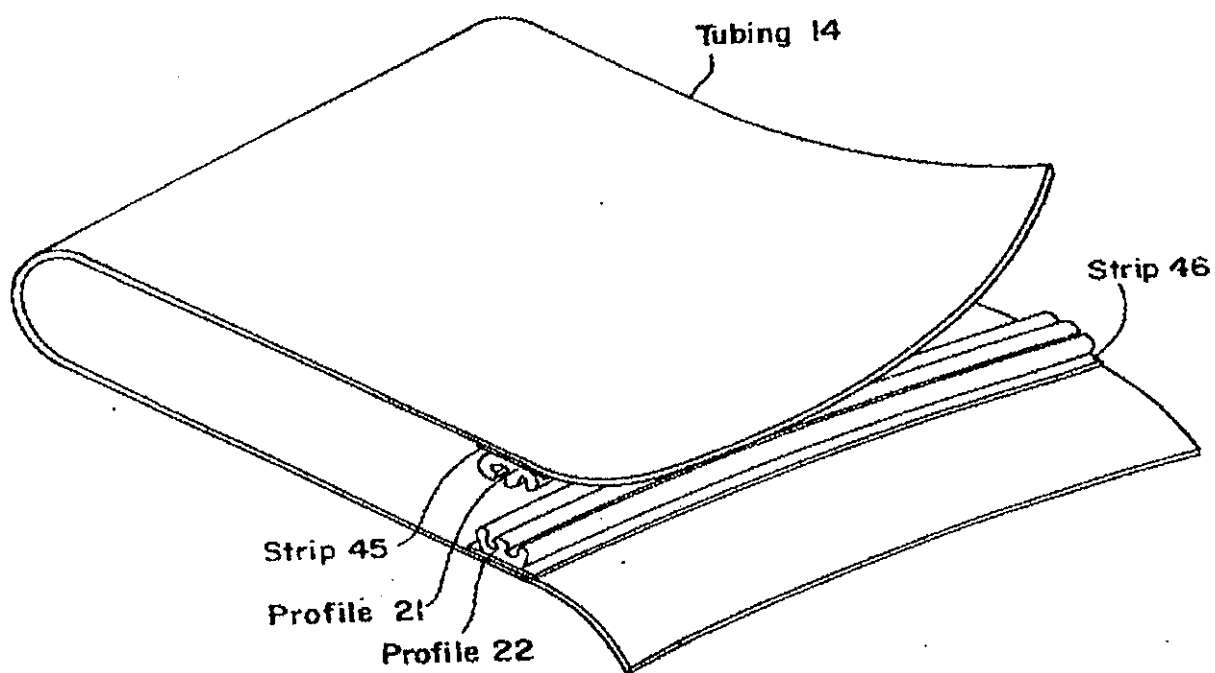
U.S. Patent

Aug. 2, 1994

Sheet 4 of 4

5,334,127

FIG. 6



5,334,127

1

RECLOSABLE PLASTIC BAGS MADE WITH OPEN MOUTH AND METHOD OF MAKING OPEN MOUTH BAGS

BACKGROUND OF THE INVENTION

Recloseable plastic bags are well known in the art. It is known in the prior art to provide a thin sheet of tubular stock material which is extruded as a tube and is formed with one or more mating profiles which profiles are partially cooled and then interlocked. The interlocked profiles and tube are then sealed and severed to form bags. The interlocked profiles form the mouths of the bags and can be opened by the user and reclosed as desired. U.S. Pat. No. 4,846,586 issued to Edward C. Bruno discloses plastic bags which are formed to have initially open mouths; that is bags are formed with the mating profiles being in a non-locked condition. One principal advantage of a bag received with an open mouth is that a user, such as a clerk in a deli counter can grab an already open bag from a stand or a box and promptly insert goods into the bag without the additional wasted time of having to initially open the bag. Also, the advantage is very apparent in a product packing line wherein the packer gets an already open bag, thereby eliminating the extra step of opening the bag.

SUMMARY OF THE INVENTION

The present invention discloses a recloseable plastic bag having mating profiles which is made with the mouth of the bag open; that is, with the mating profiles in an unlocked condition, and to an improved method of making plastic bags with open mouths.

The foregoing features and advantages of the present invention will be apparent from the following more particular description of the invention. The accompanying drawings listed hereinbelow, are useful in explaining the invention.

DRAWINGS

FIG. 1 is a flow chart depicting the steps in forming bags in accordance with the invention.

FIG. 2 depicts apparatus for forming bags in accordance with a second embodiment of the invention.

FIG. 3 shows apparatus for spot fusing the tubing film and apparatus for separating the profiles, and

FIG. 3A is a sketch showing the positioning of the spot fusing or tacks relative to the blade means,

FIG. 3B is a sketch showing the positioning of the spot fusing relative to the mating profiles,

FIG. 3C is a sketch showing the positioning of the spot fusing relative to the formed bags,

FIG. 4 shows an open mouth bag made in accordance with the invention and showing the spot fusing or tacks formed on the formed bag.

FIG. 5 shows a second embodiment of the invention wherein a single spot fusing or tack is utilized in making the invention open mouth bag, and

FIG. 6 shows an embodiment of the invention wherein profiles made on or affixed to strips are utilized to form the inventive open mouth bags.

DESCRIPTION OF THE INVENTION

FIG. 1 depicts the process of forming bags in-line; that is, the process of forming bags 10 shown in FIG. 3 directly from the plastic tubing film being extruded from the extruder. In FIG. 1, block 11 depicts the apparatus and method of extruding tubing and recloseable

2 mating profiles as is well known in the art. The block 12 depicts the well known apparatus and method of flattening the tubing and engaging the profiles, to enable the profiles to cool while engaged, to thereby assure a good closure and seal, after the profiles cool and after the bag 10 is made. The block 13 indicates the apparatus and method of cooling the tubing and profiles. The block 14 depicts the apparatus and method for cutting the tube longitudinally (slitting the tubing) to form a U-shaped member. All the foregoing apparatus and steps are well known in the art, see for example U.S. Pat. No. Re. 29,208.

The recloseable plastic bags made in accordance with the prior art as shown in U.S. Pat. No. Re. 29,208 have their mating profiles engaged, and the bags are made with their openings or mouths being closed. In contrast to the prior art, the present invention makes the recloseable plastic bags 10 with the mating profiles being disengaged or unlocked and the mouth of the bags 10 being open.

The block 15 depicts an important feature of the invention wherein the tubing 20 is fused at points or spots adjacent the profiles 21 and 22, before or prior to separating the profiles by a specially constructed and positioned blade means 26, as will be described fully hereinbelow, and as depicted in the block 16 of FIG. 1. The apparatus and method for disengaging the profiles is also shown in FIGS. 3, 3A and 3B, and will be described in detail hereinafter.

The block 17 depicts the guiding of the plastic tubing or film and the profiles through the processing and cooling mechanism, as is well known. The block 18 depicts the apparatus and method for forming the bags including the apparatus and method for edge sealing and cutting of the plastic tubing to form the recloseable plastic bags 10 as shown in FIG. 4. The apparatus and method for sealing and forming bags is also well known in the art.

Refer now to FIG. 3. In FIG. 3, the tubing 20 extruded by the extruder which has been flattened to engage the mating profiles 21 and 22, and which has been further cooled and longitudinally slit as at 23 is driven by suitable rollers to and through the inventive mating profile separating means or apparatus 25. Note, that the profiles 21 and 22 are engaged or closed at a position to the right (as oriented in FIG. 3) of separating blade means 26.

In a preferred embodiment, profile separating means apparatus 25 comprises a "Z" shaped member or blade 26 supported as at 27 to extend between the slit 23 of the tubing 20. The supported end portion 26a of blade 26 extends toward the engaged mating profiles 21 and 22 and the mid portion 26b of blade 26 extends parallel to the profiles 21 and 22. The free end portion 26c blade 26 extends into the tubing 20 between the profiles 21 and 22 to intercept the engaged profiles and force them to separate and disengage.

Importantly, at a point ahead or before the blade 26c engages or meets the moving tubing 20 and affixed profiles 21 and 22 the film is spot fused or tacked at a position adjacent the profiles, as shown in FIGS. 3 and 3B. A controlled heat fusing means 29 is selectively controlled to move downwardly, by electrical control mechanism 32, well known in the art, to spot fuse, weld tack the tubing film as at 30 and 31 adjacent the profiles 21 and 22. Fuse tack 30 is made below the profiles 21 and 22 and fuse tack 31 is made above profiles 21 and 22.

5,334,127

3

The fusing means 29 may be any known ultra sonic device or electrical heating device. Fusing means 29 is actuated to effect a fusing or tacking at the sides of each bag being made as indicated in FIG. 3C.

Accordingly, the side of the film of the tubing 20 is tacked or fused together before the profiles 21 and 22 are separated. This assures that the profiles 21 and 22 remained aligned with each other, when they are re-closed or reengaged, and even though they become physically separated. Note, that the sides of the bags 10 being made will be fused or tacked in position even though the profiles 21 and 22 are disengaged in the center of the bag 10 as shown in FIG. 4.

Next the separated profiles 21 and 22 are guided to the edge sealing and cutting station 17, well known in the art, to edge seal and cut the sides of the bag 10 as at 34 and 35. Note that, as shown in FIG. 4, the fused spots or tacks 30 and 31 are vertically aligned with the edge seals 34 and 35 of the bag 10.

It has been found that while two fused spot, fusings or tacks 30 and 31 are preferred, that is fusings above and below the profiles are preferred, in some instances a single fusing or tack may be used. In such instances where a single tack is utilized, the lower fusing or tack 30 appears to hold the profiles 21 and 22 in better alignment. When a single fusing or tack is utilized, the separating blade can comprise a substantially straight bar blade 26d; that is blade 26d can extend straight out to a support 27.

FIG. 2 depicts a method and apparatus for making recloseable plastic bags 10 with mating profiles 21 and 22 wherein the profiles are made or extruded separately from the tubing, as is well known in the art. In FIG. 2, the direction of movement of the tubing is depicted as being from right to left. The first block 44 indicates apparatus (of any well known type) for affixing the profile and/or profile strips to the film material; next, block 43 indicates the apparatus for fusing the film tubing at a point adjacent the profile, as described hereinabove; next, block 42 indicates the apparatus for separating or disengaging the profiles, also as described above; and, lastly block 41 indicates the apparatus for forming the bags including the operation of edge cutting and sealing the bags.

As shown in FIG. 6, the profile 21 is formed as a portion of the strip of plastic film 45 and profile 22 is formed as a portion of the strip of plastic film 46. As in the previously described method and apparatus, the profiles 21 and 22 are fed to the bag making equipment in an initially closed or mating condition. The tubing 20 is fed through the separating apparatus 25 as described above to fuse or tack the tubing 20 at points adjacent the profiles 21 and 22 to effectively delineate the sides of the bags 10 being formed before the profiles are separated and the tubing is edge sealed and cut to form the bags 10.

While the invention has been particularly shown and described with reference to a preferred embodiment thereof, it will be understood by those skilled in the art, that various changes in form and detail can be made therein without departing from the spirit and scope the invention.

We claim:

1. In a method of making reclosable plastic bags wherein the bags are made by extruding plastic film from an extruder as continuous tubing having mating fastener profiles moving the tubing along a longitudinal path and flattening the tubing engaging, the profiles to

mate and close with each other, and slitting the tubing longitudinally; the improvement consisting of the steps of:

- a) periodically fusing the engaged and slit continuous tubing on at least one selected area adjacent said profiles as said tubing moves along said path, and
- b) separating said profiles of the fused continuous tubing at a path position subsequent to said fusing, whereby said tubing and profiles may then be sealed and cut to form bags with open profiles and with open mouths.

2. In a method of making recloseable plastic bags having mating engageable fastener profiles wherein the bags are made by extruding plastic as elongated moving tubing and profiles, moving said tubing and profiles along a longitudinal path relative to said tubing and profiles, flattening said tubing, affixing and engaging said profiles with each other along their lengths, cutting said tubing longitudinally thereof and adjacent said profiles to form a U-shaped web with engaged profiles moving along said longitudinal path, the improvement consisting of the steps of:

- a) periodically fusing said moving U-shaped web but not said profiles, on at least one selected area adjacent said profiles as said member moves along said path,
- b) separating said profiles of the fused U-shaped web at a path position subsequent to said fusing, whereby the fused web can next be sealed and cut to form bags with open profiles.

3. In apparatus for making recloseable plastic bags having mating engageable fastener profiles with the mouth of the bags being open, said apparatus including means for extruding elongated plastic tubing with mating profiles, means for flattening said tubing and engaging said profiles with each other, means for moving said tubing along a path longitudinal thereto, and means for cutting said tubing longitudinally thereto, and means for cutting said tubing longitudinally thereof to form a U-shaped elongated tubing member with engaged profiles and open edges, the improvement including:

- a) controllable means for fusing said tubing member at selected longitudinally spaced areas adjacent said profiles, said controllable means fusing said tubing member at a first area adjacent said edges and above said profiles, and at a second area away from said edges and below said profiles, and
- b) a blade means for separating said profiles of the fused elongated tubing member at a point after said tubing member has been fused at selected spaced areas,

whereby said elongated tubing member can be subsequently sealed and cut to form bags with open mouths.

4. The improved apparatus as in claim 3 wherein said blade means is Z-shaped, and one extremity of the Z-shaped shaped blade means extends between the fused areas and between the profiles.

5. In apparatus for making recloseable plastic bags having mating engageable fastener profiles with the mouth of the bags being open, said apparatus including means for extruding elongated plastic tubing with mating profiles, means for flattening said tubing and engaging said profiles with each other, means for moving said tubing along a path longitudinal thereto, means for cutting said tubing longitudinally thereof to form a U-shaped elongated tubing member with engaged profiles and open edges, the improvement comprising:

5,334,127

5

a) controllable means for fusing said tubing member at selected longitudinally spaced areas adjacent said profiles, said controllable means fusing said tubing member at a first area away from said edges and below said profiles, and

b) a blade means having a substantially straight configuration for separating said profiles of the fused elongated tubing member at a point after said elongated member has been fused at the selected spaced areas,

whereby said elongated tubing member can be subsequently sealed and cut to form bags with open profiles and open mouths.

6. In a method of making reclosable plastic bags wherein the bags are made by extruding continuous

6

plastic film tubing from an extruder, affixing strips of mating fastener profiles to said tubing, moving the tubing along a longitudinal path and flattening the tubing, engaging the profiles to mate and close with each other, and slitting the tubing longitudinally; the improvement consisting of the steps of:

a) periodically fusing the engaged and slit continuous tubing on at least one selected area adjacent said profiles as said tubing moves along said path, and

b) separating said profiles of the fused continuous tubing at a path position subsequent to said fusing, whereby said tubing and profiles may next be sealed and cut to form bags with open profiles and open mouths.

* * * * *

20

25

30

35

40

45

50

55

60

65

DOCKETED
APR 23 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BARB PRODUCTS, INC.,

Plaintiff,

v.

IAMS COMPANY, MOUNTAIN COUNTRY
FOODS, INC., C & H PACKAGING
COMPANY, INC., PEEL PLASTIC
PRODUCTS, and HIKARI SALES U.S.A.,
INC.

Defendants.

01C 2842

Civil Action No.

JURY TRIAL DEMANDED

JUDGE GOTTSCHALL
MAGISTRATE JUDGE BOBRICK

FILED
APR 20 2001
U.S. DISTRICT COURT

U.S. DISTRICT COURT

LOCAL RULE 3.4 NOTICE OF CLAIMS INVOLVING PATENT

Pursuant to Local Rule 3.4, plaintiff provides the following information to be used by the Clerk of the Court as required by 35 U.S.C. § 290:

1. Name and address of plaintiff: Barb Products, Inc., 111 Rivershire Lane, Lincolnshire, Illinois 60069.
2. Name and address of defendants: Iams Company, 7250-T Poe Avenue, Dayton, Ohio 45414; Mountain Country Foods, Inc., 1533 North Main Street, Spanish Fork, Utah 84660; C & H Packaging Company, Inc., 1401 W. Taylor Street, Merrill, WI 54452-2917; Peel Plastic Products, 49 Rutherford Road S., Brampton, Ontario, Canada L6W3J3; and Hikari Sales U.S.A., Inc., 2804 McCone Avenue, Haywood, California 94545.
3. Name of Inventors: Edward C. Bruno, Roger A. Davison.

1-1

4. Patent Number Involved: U.S. Patent No. 5,334,127.

BARB PRODUCTS INC.



Keith A. Vogt

Michael P. Mazza

Douglas M. Hall

NIRO, SCAVONE, HALLER AND NIRO

181 West Madison Street, Suite 4600

Chicago, Illinois 60602

Phone: (312) 236-0733

Attorneys for Barb Products Inc.

Dated: April 20, 2001

AO 121 (6/90)

COPY

TO:	
COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON, D.C. 20231	REPORT ON THE FILING OF DETERMINATION OF AN ACTION OR APPEAL REGARDING A COPYRIGHT

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO. 01 C 2842	DATE FILED 4/20/01	UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION
PLAINTIFF		DEFENDANT
Barb Products Inc.		Iams Company et al.,
PATENT NO.	DATE OF PATENT	PATENTEE
5,334,127	8/2/94	Edward C. Bruno , Roger A. Davison

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
PATENT NO.	DATE OF PATENT	PATENTEE		
1				
2				
3				

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT

CLERK MICHAEL W. DOBBINS	(BY) DEPUTY CLERK Laura Springer	DATE 4/23/01

Copy 1 - Upon initiation of action, mail this copy to Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner
Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

JS 44
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**JUDGE GOTTSCHALL****BARB PRODUCTS, INC. MAGISTRATE JUDGE BOBRICK****DEFENDANTS**

**IAMS COMPANY, MOUNTAIN COUNTRY FOODS, INC.,
C&H PACKAGING COMPANY, INC., PEEL
PLASTIC PRODUCTS, AND HIKARI SALES
U.S.A., INC.**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF LAKE, IL
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

NIRO, SCAVONE, HALLER & NIRO
181 W. MADISON STREET, SUITE 4600
CHICAGO, IL 60602-4515 (312) 236-0733

ATTORNEYS (IF KNOWN)

DOCKETED**APR 23 2001****01C 2842****II. BASIS OF JURISDICTION**

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

PATENT INFRINGEMENT -- 35 U.S.C. SECTION 281**VII. REQUESTED IN COMPLAINT**

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND:☒ YES ☐ NO**VIII. This case** ☒ is not a refiling of a previously dismissed action.☐ is a refiling of case number _____, previously dismissed by Judge _____

DATE

4/20/01

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

1-2

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS JUDGE GOTTSCHALL

MAGISTRATE JUDGE BOBRICK

01C 2842

In the Matter of

BARB PRODUCTS, INC.

v.

Case Number:

IAMS COMPANY, MOUNTAIN COUNTRY FOODS, INC.,

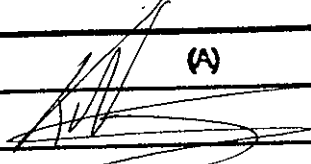

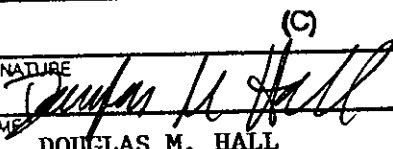
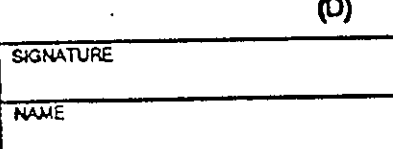
C&H PACKAGING COMPANY, INC., PEEL PLASTIC PRODUCTS, and HIKARI SALES U.S.A., INC.

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

BARB PRODUCTS, INC.

DOCKETED

APR 23 2001

 (A)		 (B)	
SIGNATURE		SIGNATURE	
NAME KEITH A. VOGT		NAME MICHAEL P. MAZZA	
FIRM NIRO, SCAVONE, HALLER & NIRO		FIRM NIRO, SCAVONE, HALLER & NIRO	
STREET ADDRESS 181 W. MADISON ST., SUITE 4600		STREET ADDRESS 181 W. MADISON ST., SUITE 4600	
CITY/STATE/ZIP CHICAGO, IL 60602-4515		CITY/STATE/ZIP CHICAGO, IL 60602-4515	
TELEPHONE NUMBER (312) 236-0733		TELEPHONE NUMBER (312) 236-0733	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6207971		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6201609	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
 (C)		 (D)	
SIGNATURE		SIGNATURE	
NAME DOUGLAS M. HALL		NAME	
FIRM NIRO, SCAVONE, HALLER & NIRO		FIRM	
STREET ADDRESS 181 W. MADISON ST., SUITE 4600		STREET ADDRESS	
CITY/STATE/ZIP CHICAGO, IL 60602-4515		CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 236-0733		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6269885		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

PLEASE COMPLETE IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.